

ORIGINAL

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
)	
W. R. GRACE & CO., <u>et al.</u> , ¹	)	Case No. 01-01139 (JJF)
	)	Jointly Administered
Debtors.)	
	)	Objections due by:
	)	June 19, 2001 at 4:00 p.m.
	)	Hearing Date: (negative notice)
	)	June 21, 2001 at a time t/b/d if necessary

**NOTICE OF MOTION OF DEBTORS FOR THE ENTRY OF AN
ORDER AUTHORIZING THE RETENTION OF EXPERTS**

TO: Parties required to receive notice pursuant to Del. Bankr. LR 2002-1.

On June 4, 2001, the above-captioned debtors and debtors in possession (collectively, the "Debtors") filed the **Motion of Debtors for the Entry of an Order Authorizing the Retention of Experts** (the "Motion") with the United States Bankruptcy Court for the District of Delaware, 824 Market Street, Wilmington, Delaware 19801 (the "Bankruptcy Court"). A true and correct copy of the Motion is attached hereto.

¹ The Debtors consist of the following 62 entities: W. R. Grace & Co. (f/k/a Grace Specialty Chemicals, Inc.), W. R. Grace & Co.-Conn., A-1 Bit & Tool Co., Inc., Alewife Boston Ltd., Alewife Land Corporation, Amicon, Inc., CB Biomedical, Inc. (f/k/a Circe Biomedical, Inc.), CCHP, Inc., Coalgrace, Inc., Coalgrace II, Inc., Creative Food 'N Fun Company, Darex Puerto Rico, Inc., Del Taco Restaurants, Inc., Dewey and Almy, LLC (f/k/a Dewey and Almy Company), Ecarg, Inc., Five Alewife Boston Ltd., G C Limited Partners I, Inc. (f/k/a Grace Cocoa Limited Partners I, Inc.), G C Management, Inc. (f/k/a Grace Cocoa Management, Inc.), GEC Management Corporation, GN Holdings, Inc., GPC Thomasville Corp., Gloucester New Communities Company, Inc., Grace A-B Inc., Grace A-B II Inc., Grace Chemical Company of Cuba, Grace Culinary Systems, Inc., Grace Drilling Company, Grace Energy Corporation, Grace Environmental, Inc., Grace Europe, Inc., Grace H-G Inc., Grace H-G II Inc., Grace Hotel Services Corporation, Grace International Holdings, Inc. (f/k/a Dearborn International Holdings, Inc.), Grace Offshore Company, Grace PAR Corporation, Grace Petroleum Libya Incorporated, Grace Tarpon Investors, Inc., Grace Ventures Corp., Grace Washington, Inc., W. R. Grace Capital Corporation, W. R. Grace Land Corporation, Gracoal, Inc., Gracoal II, Inc., Guanica-Caribe Land Development Corporation, Hanover Square Corporation, Homco International, Inc., Kootenai Development Company, L B Realty, Inc., Litigation Management, Inc. (f/k/a GHSC Holding, Inc., Grace JVH, Inc., Asbestos Management, Inc.), Monolith Enterprises, Incorporated, Monroe Street, Inc., MRA Holdings Corp. (f/k/a Nestor-BNA Holdings Corporation), MRA Intermedco, Inc. (f/k/a Nestor-BNA, Inc.), MRA Staffing Systems, Inc. (f/k/a British Nursing Association, Inc.), Remedium Group, Inc. (f/k/a Environmental Liability Management, Inc., E&C Liquidating Corp., Emerson & Cuming, Inc.), Southern Oil, Resin & Fiberglass, Inc., Water Street Corporation, Axial Basin Ranch Company, CC Partners (f/k/a Cross Country Staffing), Hayden-Gulch West Coal Company, H-G Coal Company.

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Objections and other responses to the relief requested in the Motion, if any, must be in writing and be filed with the Bankruptcy Court no later than 4:00 p.m. Eastern Time on June 19, 2001.

Objections or other responses to the Motion, if any, must also be served so that they are received not later than June 19, 2001 at 4:00 p.m. Eastern Time, by (i) co-counsel for the Debtors, James H.M. Sprayregen, Esquire, Kirkland & Ellis, 200 East Randolph Drive, Chicago, Illinois 60601 (fax number 312-861-2200), and Laura Davis Jones, Esquire, Pachulski, Stang, Ziehl, Young & Jones P.C., 919 North Market Street, Suite 1600, P.O. Box 8705, Wilmington, DE 19899-8705 (Courier 19801) (fax number 302-652-4400); (ii) the Office of the United States Trustee, Attn: Frank J. Perch, Esquire, 844 N. King Street, Wilmington, Delaware 19801 (fax number 302-573-6497); (iii) counsel to the Official Committee of Property Damage Claimants, Scott L. Baena, Esquire, Bilzin, Sumberg, Dunn, Baena, Price & Axelrod, First Union Financial Center, 200 South Biscayne Boulevard, Suite 2500, Miami, Florida 33131 (fax number 305-374-7593), and Michael B. Joseph, Esquire, Ferry & Joseph, P.A., 824 Market Street, Suite 904, P.O. Box 1351, Wilmington, Delaware 19899 (fax number 302-575-1714); (iv) counsel to the Official Committee of Personal Injury Claimants, Elihu Inselbuch, Esquire, Caplin & Drysdale, 399 Park Avenue, 36th Floor, New York, New York 10022 (fax number 212-644-6755), and Matthew G. Zaleski, III, Esquire, Ashby & Geddes, 222 Delaware Avenue, P.O. Box 1150, Wilmington, Delaware 19899 (fax number 302-654-2067); and (v) counsel to the Official Committee of Unsecured Creditors, Lewis Kruger, Esquire, Stroock & Stroock & Lavan, 180 Maiden Lane, New York, New York 10038-4982 (fax number 212-806-6006), and Michael R.

Lastowski, Esquire, Duane, Morris & Heckscher, LLP, 1100 N. Market Street, Suite 1200,
Wilmington, Delaware 19801-1246 (fax number 302-657-4901).

IF NO OBJECTIONS ARE TIMELY FILED AND SERVED IN
ACCORDANCE WITH THIS NOTICE, THE BANKRUPTCY COURT MAY GRANT THE
RELIEF DEMANDED BY THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

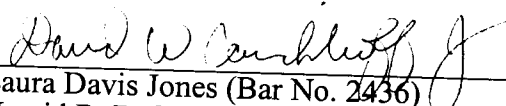
IN THE EVENT THAT ANY OBJECTION OR RESPONSE IS FILED AND SERVED IN ACCORDANCE WITH THIS NOTICE, A HEARING ON THE MOTION WILL BE HELD BEFORE THE HONORABLE JOSEPH J. FARNAN, JR., UNITED STATES DISTRICT JUDGE, ON JUNE 21, 2001 AT A TIME TO BE DETERMINED AT THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE, 844 N. KING STREET, WILMINGTON, DELAWARE 19801. THE DEBTORS WILL NOTICE ANY OBJECTING PARTIES, THE RESPECTIVE COMMITTEES, AND ANY PARTY WHO SO REQUESTS OF THE TIME OF SUCH HEARING.

Dated: June 4, 2001

KIRKLAND & ELLIS
James H.M. Sprayregen
James W. Kapp III
Samuel A. Schwartz
Roger J. Higgins
200 East Randolph Drive
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(312) 861-2000

and

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Co-Counsel for the Debtors and
Debtors in Possession

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
)	
W. R. GRACE & CO., <u>et al.</u> , ¹	)	Case No. 01-1139 (JJF)
	)	(Jointly Administered)
)	
Debtors.	)	Objections due by:
	)	June 19, 2001 at 4:00 p.m.
	)	Hearing Date: (negative notice)
	)	June 21, 2001 at a time t/b/d if necessary

**MOTION OF DEBTORS FOR THE ENTRY OF AN
ORDER AUTHORIZING THE RETENTION OF EXPERTS**

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) hereby move (the “Motion”) the Court for entry of an order authorizing the retention of certain experts, and in support thereof respectfully state as follows:

¹ The Debtors consist of the following 62 entities: W. R. Grace & Co. (f/k/a Grace Specialty Chemicals, Inc.), W. R. Grace & Co.-Conn., A-1 Bit & Tool Co., Inc., Alewife Boston Ltd., Alewife Land Corporation, Amicon, Inc., CB Biomedical, Inc. (f/k/a Circe Biomedical, Inc.), CCHP, Inc., Coalgrace, Inc., Coalgrace II, Inc., Creative Food 'N Fun Company, Darex Puerto Rico, Inc., Del Taco Restaurants, Inc., Dewey and Almy, LLC (f/k/a Dewey and Almy Company), Ecarg, Inc., Five Alewife Boston Ltd., G C Limited Partners I, Inc. (f/k/a Grace Cocoa Limited Partners I, Inc.), G C Management, Inc. (f/k/a Grace Cocoa Management, Inc.), GEC Management Corporation, GN Holdings, Inc., GPC Thomasville Corp., Gloucester New Communities Company, Inc., Grace A-B Inc., Grace A-B II Inc., Grace Chemical Company of Cuba, Grace Culinary Systems, Inc., Grace Drilling Company, Grace Energy Corporation, Grace Environmental, Inc., Grace Europe, Inc., Grace H-G Inc., Grace H-G II Inc., Grace Hotel Services Corporation, Grace International Holdings, Inc. (f/k/a Dearborn International Holdings, Inc.), Grace Offshore Company, Grace PAR Corporation, Grace Petroleum Libya Incorporated, Grace Tarpon Investors, Inc., Grace Ventures Corp., Grace Washington, Inc., W. R. Grace Capital Corporation, W. R. Grace Land Corporation, Gracoal, Inc., Gracoal II, Inc., Guanica-Caribe Land Development Corporation, Hanover Square Corporation, Homco International, Inc., Kootenai Development Company, L B Realty, Inc., Litigation Management, Inc. (f/k/a GHSC Holding, Inc., Grace JVH, Inc., Asbestos Management, Inc.), Monolith Enterprises, Incorporated, Monroe Street, Inc., MRA Holdings Corp. (f/k/a Nestor-BNA Holdings Corporation), MRA Intermedco, Inc. (f/k/a Nestor-BNA, Inc.), MRA Staffing Systems, Inc. (f/k/a British Nursing Association, Inc.), Remedium Group, Inc. (f/k/a Environmental Liability Management, Inc., E&C Liquidating Corp., Emerson & Cuming, Inc.), Southern Oil, Resin & Fiberglass, Inc., Water Street Corporation, Axial Basin Ranch Company, CC Partners (f/k/a Cross Country Staffing), Hayden-Gulch West Coal Company, H-G Coal Company.

Summary of Relief Requested

1. The Debtors have identified certain experts needed to assist them with the litigation of threshold tort liability issues and with proceedings concerning the allowance/disallowance, estimation and liquidation of claims. Initially, the experts will act in a consulting capacity, though some of them may also testify at some point in *Daubert* hearings, estimation hearings, or other proceedings. The Debtors understand that the Committees (as defined herein) may also desire to retain or may have already retained comparable experts, and the Debtors propose that the relief requested in this motion for the retention of experts also apply to the Committees and their counsel, unless otherwise specified. Whomever they may be retained by, such experts are collectively referred to in this Motion as “Experts”.

2. Specifically, the Debtors do not believe that the Experts are “professionals” who require Court approval under section 327 of title 11 of the United States Code (as amended, the “Bankruptcy Code”). Accordingly, the Debtors request that the Court authorize both the Debtors and the Committees to retain their own Experts without requiring the submission of separate retention pleadings and fee applications for each Expert.

Jurisdiction

3. This Court has jurisdiction over this Motion under 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of this proceeding and this Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The statutory bases for the relief requested herein are sections 105(a) and 327(a) of the Bankruptcy Code.

Background

5. On April 2, 2001 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code (collectively, the "Chapter 11 Cases").

6. The Debtors engage in specialty chemicals and materials businesses, operating on a worldwide basis, with their corporate headquarters located in Columbia, Maryland. The Debtors predominately operate through two business units - Davison Chemicals and Performance Chemicals. The Debtors' parent company, W. R. Grace & Co. ("Grace"), is a global holding company that conducts substantially all of its business through a direct, wholly owned subsidiary W. R. Grace & Co. - Conn. ("Grace-Conn"). Grace-Conn owns substantially all of the assets, properties and rights of Grace in the United States and has 76 domestic subsidiaries and affiliates, 60 of which are debtors and debtors in possession in the Chapter 11 Cases.

7. The Chapter 11 Cases have been consolidated for administrative purposes only and, pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, the Debtors continue to operate their businesses and manage their properties as debtors in possession.

8. On April 12, 2001, the office of the United States Trustee appointed three official committees in the Chapter 11 Cases as follows: (i) the committee of unsecured creditors (the "Creditors' Committee"); (ii) the committee of asbestos personal injury claimants (the "Asbestos Personal Injury Committee"); and (iii) the committee of asbestos property damage claimants (the "Asbestos Property Damage Committee") (the Creditors' Committee, the Asbestos Personal Injury Committee and the Asbestos Property Damage Committee, as well as any other official committee

appointed by the United States Trustee in the Chapter 11 Cases, shall collectively be referred to as the "Committees").

Relief Requested

9. As set forth above, the Debtors have identified certain areas which require the services of the Experts. The specific areas include, without limitation, the following:

- a. Medical diagnosis and disease causation, including:
 - (1) Epidemiology;
 - (2) Pathology;
 - (3) Pulmonology and lung function; and
 - (4) Oncology.
- b. Analysis of exposures, including:
 - (1) Industrial hygiene; and
 - (2) Dose estimation and reconstruction.
- c. State of the Art;
- d. Analysis, modeling and estimation of current and future asbestos personal-injury claims; and
- e. Claims facility management and procedure.

10. The Debtors reserve the right to identify additional areas and/or Experts, if needed and as appropriate.

11. The Debtors believe that the Experts referenced above are not "professionals" under section 327(a) of the Bankruptcy Code. Accordingly, the Debtors do not believe that the

retention of the Experts requires Court approval under section 327(a) of the Bankruptcy Code. The Debtors file the instant motion, however, out of an abundance of caution.

**The Experts Are Not “Professionals”
Under Section 327(a) of the Bankruptcy Code**

12. Section 327(a) of the Bankruptcy Code provides that “the trustee, with the court’s approval, may employ one or more attorneys, accountants, appraisers, auctioneers, or other *professional persons . . . to represent or assist* the trustee *in carrying out the trustee’s duties* under this title.” 11 U.S.C. § 327(a) (emphasis added). The term “professional person” is not defined by the Bankruptcy Code. As a result, courts have fashioned two tests to determine whether a party engaged by a debtor’s estate is a “professional person” pursuant to section 327(a) of the Bankruptcy Code: (1) the more commonly used “central role” test; and (2) the “degree of autonomy” test. The Experts retained and/or to be retained by the Debtors are not professionals under either test.

A. The “Central Role” Test

13. The seminal case interpreting the term “professional” states that:

[p]ersons in occupations ordinarily considered professions are not necessarily professionals whose retention by the estate requires court approval. For the purposes of section 327(a), “professional person” is limited to persons in those occupations which play a central role in the administration of the debtor proceedings.

In the Matter of Seatrain Lines, Inc., 13 B.R. 980, 981 (Bankr. S.D. N.Y. 1981). “Administration of the estate involves . . . progress of the Chapter 11 case through the bankruptcy court from filing of the petition to confirmation of the plan.” *In re Northeast Dairy Coop. Fen’n, Inc.*, 74 B.R. 149, 153 (Bankr. N.D. N.Y. 1987). Duties considered central to the administration of the estate include assisting in the negotiation of the debtor’s plan, assisting in the adjustment of the debtor/creditor

relationship, disposing of assets of the estate, and acquiring assets on behalf of the estate. *In re Sieling Associates Ltd. Partnership*, 128 B.R. 721, 723 (Bankr. E.D. Va. 1991); *see also In re Johns-Manville Corp.*, 60 B.R. 612, 621 (Bankr. S.D. N.Y. 1986).

14. Courts have generally found that “pure” consultants, as opposed to management consultants, are not “professionals.” For example, in *In re Sieling*, 128 B.R. 721 (Bankr. E.D. Va. 1991), a toxicology consultant was hired one and a half years prepetition to test water for contamination. The court held that “[n]otwithstanding the fact that [the consultant’s] retention may be necessary for the Debtor to comply with Maryland law, [he] is not assisting the Debtor with its plan, with the sale or purchase of assets or with negotiating with creditors.” *Id.* At 732. Accordingly, the consultant was not a professional person as used in section 327(a) of the Bankruptcy Code.

15. In another case, an accounting firm was hired as an expert witness in an intellectual property action brought on behalf of a chapter 11 debtor by special counsel. The court held that “an accountant who is retained solely to testify as an expert witness in collateral litigation does not assume a ‘central role in the administration of the bankruptcy.’” *In re That’s Entertainment Marketing Group, Inc.*, 168 B.R. 226, 230 (N.D. Cal. 1994). The court reasoned that because an expert witness is not in the position to formulate strategy or to manage the estate and the estate’s liabilities, he cannot be considered a professional person pursuant to section 327(a) of the Bankruptcy Code. *Id.* at 320, n.4. *See also, In re B&W Dairy Co. of Ohio Inc.*, 70 B.R. 69 (Bankr. N.D. Ohio 1987) (court similarly reasoned that expert witnesses should not be deemed

“professionals” under section 327 because of their tangential relationship to the administration of the estate).

16. Courts in this district have also adopted a similar test as set forth above. Specifically, the factors to be considered in determining whether an expert is a professional within the meaning of section 327 of the Bankruptcy Code “include the following: (1) whether the [expert] controls, manages, administers invests purchases or sells assets that are significant to the debtors reorganization, (2) whether the [expert] is involved in negotiating the terms of a Plan of Reorganization, (3) whether the [expert] is directly related to the type of work carried out by the debtor or to the routine maintenance of the debtor’s business operations; (4) whether the [expert] is given discretion or autonomy to exercise his or her own professional judgment in some part of the debtor’s estate, i.e. the qualitative approach, (5) to the extent of the [expert]’s involvement in the administration of the debtor’s estate, i.e. the quantitative approach; and (6) whether the [expert]’s services involve some degree of special knowledge or skill, such that the [expert] can be considered a ‘professional’ within the ordinary meaning of the term.” In re First Merchants Acceptance Corporation, 1997 WL 873551, *3 (D. Del. 1997). No one factor above is dispositive and each should be weighed against the other and considered in toto. Id.

17. Like the consultants and experts in the above cases, the Experts to be retained by the Debtors are not in a position to control the strategy affecting the management or administration of the Chapter 11 Cases or the negotiation of a Plan of Reorganization. While the Experts’ advice may be helpful to the estimation and claims liquidation proceedings, such advice is

distantly related and tangential to the administration of the estate. Accordingly, the Experts are not “professionals” under the central role test.

B. The “Degree of Autonomy” Test

18. Under this test, courts consider whether the party is to be given discretion or autonomy in some part of the administration of the debtor’s estate. *In re Fretheim*, 102 B.R. 298, 299 (Bankr. D. Conn. 1989). If the party hired by the estate has complete discretion, independent ability and complete financial management authority over the operation of the estate, such party is a “professional.” *In re Frederick Petroleum Corp.*, 75 B.R. 774, 780 (Bankr. S.D. Ohio).

19. A person or entity performing only routine administrative functions and services, without more, is not a professional because such party’s role is confined to events in the ordinary course of the debtor’s business which are not essential either to the bankruptcy proceedings or to major policy decisions. *In re Leslie Oil and Gas Co.*, 98 B.R. 774, 776 (Bankr. S.D. Ohio 1989). In *Leslie Oil*, the debtor assigned prepetition voting rights in its stock to Pride Petroleum Inc. (“Pride”). While Pride was incorporated for the sole purpose of managing the debtor’s business pursuant to a management contract, the debtor and Pride had an agreement specifically prohibiting Pride from management duties or participation in business decisions regarding, *inter alia*, financial, legal, securities and reorganization matters. *Id.* at 776. Thus, despite the central nature of its management role, Pride was not a “professional” because it did not possess the necessary degree of discretion or autonomy.

20. The “degree of autonomy” cases reason that the primary purpose of section 327(a) of the Bankruptcy Code is to prevent conflicts of interests which “erode the confidence in the

administration of justice in bankruptcy courts.” *In re Intech Capital Corp.*, 87 B.R. 232, 236 (Bankr. D.Conn. 1988). The prohibition against appointment of an interested person is to prevent placing such a party in a sufficiently autonomous position such that he or she has discretion to implement activities benefitting an adverse interest. *In re Frederick*, 75 B.R. 774, 780.

21. While the Experts here will render independent opinions, such opinions do not empower them with discretion or autonomy over the administration of the Debtors’ estates, such as the purchase and sale of assets or the strategy to be used to reorganize, manage, and liquidate estate assets. Accordingly, the Experts do not meet the “degree of autonomy” test.

**Retention of the Experts Should Be
Allowed Independent from Section 327(a)**

22. Based on the foregoing, the Debtors submit that the Experts to be used, in part, in connection with the tort litigation, proceedings for allowing and disallowing claims, claims estimation, claims liquidation, and other proceedings are not professionals under section 327(a) of the Bankruptcy Code. Therefore, Court approval of their retention is not required.

23. To help ensure that the retention of Experts is appropriate and cost-effective, the Debtors will scrutinize the Experts’ work and invoices as they are performed and will have incentives, just as they did prepetition, to make sure that this work is performed in an appropriate and cost-effective manner.

24. For any Experts retained by the Committees, the Debtors propose that counsel for the Committees be authorized to retain their own Experts, be charged with scrutinizing the Experts’ work and invoices to make sure their work is appropriate and cost-effective, and be permitted to seek reimbursement for Experts’ fees and expenses as disbursements on the

Committees' periodic fee applications served in compliance with that certain Administrative Order Under 11 U.S.C. §§ 105(a) and 331 Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals and Official Committee Members, dated May 3, 2001. Further, the relief requested herein has been approved in other large chapter 11 cases. See *In re Dow Corning Corporation*, Case No. 95-20512 (AJS) (Bankr. E.D. Mich. 1995); *In re Babcock & Wilcox Company*, Case No. 00-10992 (JAB) (Bankr. E.D. La. 2000).

Notice

25. Notice of this Motion has been given to: (i) the United States Trustee, (ii) counsel to the DIP Lender, (iii) counsel to The Chase Manhattan Bank as agent for the Debtors' prepetition lenders, (iv) counsel to the Committees and (v) all those parties that requested service and notice of papers in accordance with Fed R. Bankr. P. 2002. In light of the nature of the relief requested, the Debtors submit that no further notice is required.

WHEREFORE, the Debtors respectfully request that the Court (i) authorize the Debtors and the Committees to retain Experts, effective as of the Petition Date or as such Experts are retained and (ii) grant such other and further relief as is just and proper.


Wilmington, Delaware
Dated: June 4, 2001

Respectfully submitted,

KIRKLAND & ELLIS
James H.M. Sprayregen
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Co-Counsel for the Debtors and Debtors in Possession

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:) Chapter 11
)
W. R. GRACE & CO., et al.,¹) Case No. 01-1139 (JJF)
) (Jointly Administered)
)
Debtors.)

ORDER AUTHORIZING THE RETENTION OF EXPERTS

Upon the Motion² of the above-captioned debtors and debtors in possession (collectively, the "Debtors"), seeking the entry of an order authorizing the retention of Experts and it appearing that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors and other parties in interest; and it appearing that this proceeding is a core proceeding pursuant to 28 U.S.C. § 157; and after due deliberation and cause appearing therefore; it is hereby

FOUND that this Court has jurisdiction over the Motion pursuant to 28 U.S.C.

§§ 1334(b) and 157; and it is further

¹ The Debtors consist of the following 62 entities: W. R. Grace & Co. (f/k/a Grace Specialty Chemicals, Inc.), W. R. Grace & Co.-Conn., A-1 Bit & Tool Co., Inc., Alewife Boston Ltd., Alewife Land Corporation, Amicon, Inc., CB Biomedical, Inc. (f/k/a Circe Biomedical, Inc.), CCHP, Inc., Coalgrace, Inc., Coalgrace II, Inc., Creative Food 'N Fun Company, Darex Puerto Rico, Inc., Del Taco Restaurants, Inc., Dewey and Almy, LLC (f/k/a Dewey and Almy Company), Ecarg, Inc., Five Alewife Boston Ltd., G C Limited Partners I, Inc. (f/k/a Grace Cocoa Limited Partners I, Inc.), G C Management, Inc. (f/k/a Grace Cocoa Management, Inc.), GEC Management Corporation, GN Holdings, Inc., GPC Thomasville Corp., Gloucester New Communities Company, Inc., Grace A-B Inc., Grace A-B II Inc., Grace Chemical Company of Cuba, Grace Culinary Systems, Inc., Grace Drilling Company, Grace Energy Corporation, Grace Environmental, Inc., Grace Europe, Inc., Grace H-G Inc., Grace H-G II Inc., Grace Hotel Services Corporation, Grace International Holdings, Inc. (f/k/a Dearborn International Holdings, Inc.), Grace Offshore Company, Grace PAR Corporation, Grace Petroleum Libya Incorporated, Grace Tarpon Investors, Inc., Grace Ventures Corp., Grace Washington, Inc., W. R. Grace Capital Corporation, W. R. Grace Land Corporation, Gracoal, Inc., Gracoal II, Inc., Guanica-Caribe Land Development Corporation, Hanover Square Corporation, Homco International, Inc., Kootenai Development Company, L B Realty, Inc., Litigation Management, Inc. (f/k/a GHSC Holding, Inc.), Grace JVH, Inc., Asbestos Management, Inc.), Monolith Enterprises, Incorporated, Monroe Street, Inc., MRA Holdings Corp. (f/k/a Nestor-BNA Holdings Corporation), MRA Intermedco, Inc. (f/k/a Nestor-BNA, Inc.), MRA Staffing Systems, Inc. (f/k/a British Nursing Association, Inc.), Remedium Group, Inc. (f/k/a Environmental Liability Management, Inc., E&C Liquidating Corp., Emerson & Cuming, Inc.), Southern Oil, Resin & Fiberglass, Inc., Water Street Corporation, Axial Basin Ranch Company, CC Partners (f/k/a Cross Country Staffing), Hayden-Gulch West Coal Company, H-G Coal Company.

² Capitalized terms not defined herein have the meaning ascribed to them in Motion.

FOUND that this Court has authority to grant the relief requested in the Motion pursuant to 11 U.S.C. § 105(a) and 327(a); and it is further

FOUND that notice of the Motion is sufficient and appropriate and in accordance with the Bankruptcy Rules, Local Rules, and Orders of this court; and it is further

FOUND that in connection with the litigation of threshold tort liability issues and with proceedings concerning the allowance/disallowance, estimation and liquidation of claims certain areas require the services of Experts. The specific areas identified include, without limitation, the following:

- a. Medical diagnosis and disease causation, including:
 - (1) Epidemiology;
 - (2) Pathology;
 - (3) Pulmonology and lung function; and
 - (4) Oncology.
- b. Analysis of exposures, including:
 - (1) Industrial hygiene;
 - (2) Dose estimation and reconstruction.
- c. State of the Art;
- d. Analysis, modeling and estimation of current and future asbestos personal-injury claims; and
- e. Claims facility management and procedure;

and it is further

FOUND that the Experts are not professionals under section 327(a) of the Bankruptcy Code. It is therefore,

ORDERED that Court approval for the retention of Experts is not required as such Experts are not professionals under section 327(a) of the Bankruptcy Code; and it is further

ORDERED that the Debtors and the Committees are authorized to employ and compensate the Experts effective *nunc pro tunc* as the Petition Date and such other Experts as the Debtors or the Committees may need to employ in the future for estimation, claims liquidation or any other area requiring consulting expertise; it is further

ORDERED that the party retaining the Expert shall review the billing statements submitted by the Expert and determine the reasonableness of such billing statements. The party shall pay reasonable fees and expenses incurred by the Expert monthly or upon such other terms as are customary and include such fees and expenses with the party's monthly fee applications; and it is further

ORDERED that the Debtors and the Committees are authorized and empowered to take all actions and execute such other documents as may be necessary to implement the relief granted herein; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

Wilmington, Delaware
Dated: _____, 2001

Joseph J. Farnan, Jr.
United States District Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:) Chapter 11
)
W. R. GRACE & CO., et al.,¹) Case No. 01-1139 (RJN)
) Jointly Administered
Debtors.)

AFFIDAVIT OF SERVICE

STATE OF DELAWARE)
) SS:
COUNTY OF NEW CASTLE)

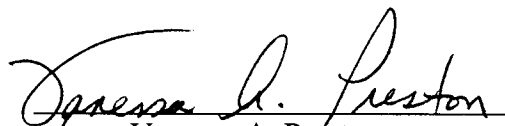
Vanessa A. Preston, being duly sworn according to law, deposes and says that she is employed by the law firm of Pachulski, Stang, Ziehl, Young & Jones P.C. and that on the 4th day of June, 2001, she caused a copy of the following document(s) to be served upon the attached service list in the manner indicated:

1. Notice of Motion of Debtors for the Entry of an Order Authorizing the Retention of Experts

¹ The Debtors consist of the following 62 entities: W. R. Grace & Co. (f/k/a Grace Specialty Chemicals, Inc.), W. R. Grace & Co.-Conn., A-1 Bit & Tool Co., Inc., Alewife Boston Ltd., Alewife Land Corporation, Amicon, Inc., CB Biomedical, Inc. (f/k/a Circe Biomedical, Inc.), CCHP, Inc., Coalgrace, Inc., Coalgrace II, Inc., Creative Food 'N Fun Company, Darex Puerto Rico, Inc., Del Taco Restaurants, Inc., Dewey and Almy, LLC (f/k/a Dewey and Almy Company), Ecarg, Inc., Five Alewife Boston Ltd., G C Limited Partners I, Inc. (f/k/a Grace Cocoa Limited Partners I, Inc.), G C Management, Inc. (f/k/a Grace Cocoa Management, Inc.), GEC Management Corporation, GN Holdings, Inc., GPC Thomasville Corp., Gloucester New Communities Company, Inc., Grace A-B Inc., Grace A-B II Inc., Grace Chemical Company of Cuba, Grace Culinary Systems, Inc., Grace Drilling Company, Grace Energy Corporation, Grace Environmental, Inc., Grace Europe, Inc., Grace H-G Inc., Grace H-G II Inc., Grace Hotel Services Corporation, Grace International Holdings, Inc. (f/k/a Dearborn International Holdings, Inc.), Grace Offshore Company, Grace PAR Corporation, Grace Petroleum Libya Incorporated, Grace Tarpon Investors, Inc., Grace Ventures Corp., Grace Washington, Inc., W. R. Grace Capital Corporation, W. R. Grace Land Corporation, Gracoal, Inc., Gracoal II, Inc., Guanica-Caribe Land Development Corporation, Hanover Square Corporation, Homco International, Inc., Kootenai Development Company, L B Realty, Inc., Litigation Management, Inc. (f/k/a GHSC Holding, Inc., Grace JVH, Inc., Asbestos Management, Inc.), Monolith Enterprises, Incorporated, Monroe Street, Inc., MRA Holdings Corp. (f/k/a Nestor-BNA Holdings Corporation), MRA Intermedco, Inc. (f/k/a Nestor-BNA, Inc.), MRA Staffing Systems, Inc. (f/k/a British Nursing Association, Inc.), Remedium Group, Inc. (f/k/a Environmental Liability Management, Inc., E&C Liquidating Corp., Emerson & Cuming, Inc.), Southern Oil, Resin & Fiberglass, Inc., Water Street Corporation, Axial Basin Ranch Company, CC Partners (f/k/a Cross Country Staffing), Hayden-Gulch West Coal Company, H-G Coal Company.

2. Motion of Debtors for the Entry of an Order Authorizing the Retention of Experts;

Dated: June 4, 2001


Vanessa A. Preston

Sworn to and subscribed before
me this 4th day of June, 2001


Notary Public

My Commission Expires: 7/11/01

W. R. Grace 2002 Service List
Case No. 01-1139 (RJN)
Doc. No. 22588
June 4, 2001
14 – Hand Delivery
07 – Federal Express
95 – First Class Mail

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